

ORIGINAL

OPEN MEETING



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**MEMORANDUM
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Arizona Corporation Commission

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JUL 11 2006

TO: THE COMMISSION

2006 JUL 11 P 12:02

FROM: Utilities Division

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: July 11, 2006

DOCKETED BY

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RE: IN THE MATTER OF THE JOINT APPLICATION OF TUCSON ELECTRIC POWER COMPANY AND TRICO ELECTRIC COOPERATIVE, INC. FOR AN ORDER APPROVING A BORDERLINE AGREEMENT. (DOCKET NOS. E-01933A-06-0196 AND E-01461A-06-0196)

On March 27, 2006, Tucson Electric Power Company ("TEP") and Trico Electric Cooperative, Inc. ("Trico") filed a joint application for approval of an Electric Service Authorization Agreement ("Borderline Agreement") for Trico to provide electric service to certain real property located in Pima County within the certificated service territory of TEP. TEP and Trico entered into the Borderline Agreement authorizing Trico to enter the subject area, certificated to TEP, and to construct and maintain electric service lines and facilities necessary to serve the subject property until such time that TEP notifies Trico of its intention to provide service to the subject property.

TEP is engaged in providing customers with electric service within its designated service territory in portions of Pima and Cochise Counties, Arizona. Trico is engaged in providing customers with electric service within its designated service territory in portions of Pima, Pinal, and Santa Cruz Counties, Arizona.

The subject property consists of approximately 20 acres in Pima County which is subdivided into four five-acre residential building lots, two of which are owned by Patrick Kirk through KEI Investing, LLC, a domestic limited liability corporation, and two of which are owned by William M. Dallman and his wife, Martha Bowes. On May 23, 2005, Mr. Kirk, as the sole owner of the 20-acre parcel, applied to Trico for an electric line to be extended onto the property. Subsequently, Mr. Kirk sold two of his lots to Mr. Dallman and Ms. Bowes with the understanding that they would be "partners" in the development of the 20-acre parcel with Mr. Dallman to be the active partner tending to development details. The property owners intend to have electric service extended to their four individual lots through underground trenching in a right-of-way they have already established on their property. They plan to sell the lots to custom homebuilders or homeowners who would become applicants for electric service. The current owners do not anticipate applying for electric service.

The property is located within TEP's certificated service territory; however, the nearest available TEP lines are more than three miles away with mostly state trust land lying between. Line extension costs for TEP to bring overhead lines to the perimeter of the property have been

roughly estimated by the company to be about \$79,000. Trico has lines located approximately 70 feet north and 95 feet west of a right-of-way entry point on the perimeter of subject property and has quoted a price of \$10,381 to extend its lines underground to this point and to continue the extension in the right-of-way established on the property approximately 990 feet to two transformers which could serve the four lots on the property. The property owners would also be required to pay about \$3,000 for the trenching and backfilling involved with upgrading the entire line extension to underground. The utilities feel that it is in the best interest of the property owners and the companies for Trico to serve the subject property until such time as TEP determines that it is economically feasible for it to provide electric service to the property.

Staff has analyzed the current standard residential rate structures of both companies and has determined that the ultimate residential customers on the four lots would pay about 16 percent lower rates to TEP than they would to Trico, based upon existing rates. Staff believes, however, that the advantage of lower rates by taking service from TEP would be more than offset by the lower line extension costs by taking service from Trico. The line extension costs are, for the most part, deposits in aid of construction and are, therefore, mostly refundable to current owners in accordance with the line extension rules and regulations of the respective companies. How much would ultimately be refunded, however, depends on several variables including when houses would be constructed on the four lots and applications for service would be made, where the houses would be constructed on each lot, and the construction of subsequent extensions that may tap into this extension. Staff feels that the time value of the savings in line extension costs and the risk to the property owners of not having significant portions of the TEP deposit refunded favor the property owners taking service from Trico. Staff also feels it makes better business sense from the standpoint of the two utilities for Trico to extend lines 165 feet to serve four residential customers rather than to have TEP run lines over three miles to accomplish the same end result at a significantly higher dollar cost and environmental cost.

The applicant companies state there are no existing line extensions or other agreements pertaining to electric service to the subject property; or any facilities, easements or rights-of-way to be transferred if this item is approved. Trico states that it would need to obtain a right-of-way from the Arizona State Land Department to bring service to the subject property. Mr. Dallman states that he has completed establishment of the necessary right-of-way across the subject property to points adjacent to the four lots.

The Borderline Agreement outlines a mechanism for TEP to re-enter the subject property at a later point in time to serve the customers located on the property, with proper written notice to Trico, should it decide to do so. Conditions contained in the Borderline Agreement would govern Trico's sale and TEP's purchase of all of Trico's electric lines and facilities, compatible with TEP's electric system and which could be utilized to serve the subject property, at original cost depreciated at an agreed upon rate per year. Prior to the sale of any electric system lines or facilities necessary and useful in delivering electric service to its customers, Trico will be required, per §40-285 of the Arizona Revised Statutes, to first obtain Commission approval.

THE COMMISSION

July 11, 2006

Page 3

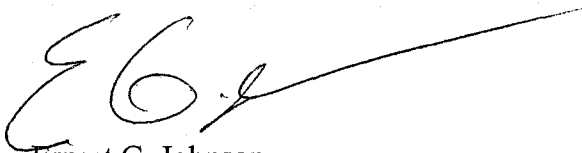
Staff believes that the Borderline Agreement entered into by TEP and Trico is a reasonable solution to allow extension of electric service to the subject property at a cost which is not prohibitively expensive. Additionally, Staff believes that the proposed Borderline Agreement would provide Trico with additional customers and revenue and provide TEP with the opportunity to serve the customers if at some future time the company determines it is economically feasible to do so.

Therefore, Staff recommends that the Borderline Agreement between TEP and Trico be approved subject to certain conditions and requirements.

Staff has concern with some of the details contained in the Borderline Agreement regarding TEP's purchase and Trico's sale of Trico-constructed facilities in the event TEP should later decide to serve the subject property. The manner in which Trico's original costs would be documented is not specified in the Borderline Agreement. The depreciation applied to those costs is described in the Borderline Agreement as Trico's costs depreciated at "the agreed upon rate per year." Staff, however, is concerned that depreciation rates agreed upon by TEP and Trico for each type of equipment may not be appropriate to calculate TEP's cost to purchase Trico-constructed facilities because they are not Commission-approved rates. Staff feels that the depreciation rates established in Trico's most recent rate case for each type of equipment would be the appropriate depreciation rates to apply in such a situation.

For the reasons outlined above, Staff further recommends that approval of the Borderline Agreement be conditioned on TEP and Trico each preparing a stipulation, and filing it in Docket Control within 60 days of the Order in this proceeding as a compliance item, that the "agreed upon rate per year" for depreciation in their Borderline Agreement will be the "Commission-approved rates established in Trico's most recent rate case for each type of property."

Staff also recommends that Trico furnish both TEP and the Commission with an itemized priced list of all lines and facilities placed into service by Trico to provide electric service adjacent to the four lots on the subject property within 30 days after completion of the construction. The Commission's copy should be filed with Docket Control concurrently with the provision of the document to TEP.



Ernest G. Johnson
Director
Utilities Division

EGJ:JDA:lhmlLF

ORIGINATOR: Jerry D. Anderson

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 JEFF HATCH-MILLER

Chairman

4 WILLIAM A. MUNDELL

Commissioner

5 MARC SPITZER

Commissioner

6 MIKE GLEASON

Commissioner

7 KRISTIN K. MAYES

Commissioner

8
9 IN THE MATTER OF THE JOINT
10 APPLICATION OF TUCSON ELECTRIC
11 POWER COMPANY AND TRICO
12 ELECTRIC COOPERATIVE, INC. FOR AN
ORDER APPROVING A BORDERLINE
AGREEMENT.

) DOCKET NOS. E-01933A-06-0196
E-01461A-06-0196

) DECISION NO. _____
) ORDER

13
14 Open Meeting
15 July 25 and 26, 2006
16 Phoenix, Arizona

17 BY THE COMMISSION:

18 FINDINGS OF FACT

19 1. Tucson Electric Power Company ("TEP") and Trico Electric Cooperative, Inc.
20 ("Trico") are certificated to provide electric service as public service corporations in the State of
Arizona.

21 2. On March 27, 2006, TEP and Trico filed a joint application for approval of an
22 Electric Service Authorization Agreement ("Borderline Agreement") for Trico to provide electric
23 service to certain real property located in Pima County within the certificated service territory of
24 TEP. TEP and Trico entered into the Borderline Agreement authorizing Trico to enter the subject
25 area, certificated to TEP, and to construct and maintain electric service lines and facilities
26 necessary to serve the subject property until such time that TEP notifies Trico of its intention to
27 provide service to the subject property.

28 ...

1 3. TEP is engaged in providing customers with electric service within its designated
2 service territory in portions of Pima and Cochise Counties, Arizona. Trico is engaged in providing
3 customers with electric service within its designated service territory in portions of Pima, Pinal,
4 and Santa Cruz Counties, Arizona.

5 4. The subject property consists of approximately 20 acres in Pima County which is
6 subdivided into four five-acre residential building lots, two of which are owned by Patrick Kirk
7 through KEI Investing, LLC, a domestic limited liability corporation, and two of which are owned
8 by William M. Dallman and his wife, Martha Bowes. On May 23, 2005, Mr. Kirk, as the sole
9 owner of the 20-acre parcel, applied to Trico for an electric line to be extended onto the property.
10 Subsequently, Mr. Kirk sold two of his lots to Mr. Dallman and Ms. Bowes with the understanding
11 that they would be "partners" in the development of the 20-acre parcel with Mr. Dallman to be the
12 active partner tending to development details. The property owners intend to have electric service
13 extended to their four individual lots through underground trenching in a right-of-way they have
14 already established on their property. They plan to sell the lots to custom homebuilders or
15 homeowners who would become applicants for electric service. The current owners do not
16 anticipate applying for electric service.

17 5. The property is located within TEP's certificated service territory; however, the
18 nearest available TEP lines are more than three miles away with mostly state trust land lying
19 between. Line extension costs for TEP to bring overhead lines to the perimeter of the property
20 have been roughly estimated by the company to be about \$79,000. Trico has lines located
21 approximately 70 feet north and 95 feet west of a right-of-way entry point on the perimeter of
22 subject property and has quoted a price of \$10,381 to extend its lines underground to this point and
23 to continue the extension in the right-of-way established on the property approximately 990 feet to
24 two transformers which could serve the four lots on the property. The property owners would also
25 be required to pay about \$3,000 for the trenching and backfilling involved with upgrading the
26 entire line extension to underground. The utilities feel that it is in the best interest of the property
27 owners and the companies for Trico to serve the subject property until such time as TEP
28 determines that it is economically feasible for it to provide electric service to the property.

1 6. Staff has analyzed the current standard residential rate structures of both companies
2 and has determined that the ultimate residential customers on the four lots would pay about 16
3 percent lower rates to TEP than they would to Trico, based upon existing rates. Staff believes,
4 however, that the advantage of lower rates by taking service from TEP would be more than offset
5 by the lower line extension costs by taking service from Trico. The line extension costs are, for
6 the most part, deposits in aid of construction and are, therefore, mostly refundable to current
7 owners in accordance with the line extension rules and regulations of the respective companies.
8 How much would ultimately be refunded, however, depends on several variables including when
9 houses would be constructed on the four lots and applications for service would be made, where
10 the houses would be constructed on each lot, and the construction of subsequent extensions that
11 may tap into this extension. Staff feels that the time value of the savings in line extension costs
12 and the risk to the property owners of not having significant portions of the TEP deposit refunded
13 favor the property owners taking service from Trico. Staff also feels it makes better business sense
14 from the standpoint of the two utilities for Trico to extend lines 165 feet to serve four residential
15 customers rather than to have TEP run lines over three miles to accomplish the same end result at a
16 significantly higher dollar cost and environmental cost.

17 7. The applicant companies state there are no existing line extensions or other
18 agreements pertaining to electric service to the subject property; or any facilities, easements or
19 rights-of-way to be transferred if this item is approved. Trico states that it would need to obtain a
20 right-of-way from the Arizona State Land Department to bring service to the subject property.
21 Mr. Dallman states that he has completed establishment of the necessary right-of-way across the
22 subject property to points adjacent to the four lots.

23 8. The Borderline Agreement outlines a mechanism for TEP to re-enter the subject
24 property at a later point in time to serve the customers located on the property, with proper written
25 notice to Trico, should it decide to do so. Conditions contained in the Borderline Agreement
26 would govern Trico's sale and TEP's purchase of all of Trico's electric lines and facilities,
27 compatible with TEP's electric system and which could be utilized to serve the subject property, at
28 original cost depreciated at an agreed upon rate per year. Prior to the sale of any electric system

1 lines or facilities necessary and useful in delivering electric service to its customers, Trico will be
2 required, per §40-285 of the Arizona Revised Statutes, to first obtain Commission approval.

3 9. Staff believes that the Borderline Agreement entered into by TEP and Trico is a
4 reasonable solution to allow extension of electric service to the subject property at a cost which is
5 not prohibitively expensive. Additionally, Staff believes that the proposed Borderline Agreement
6 would provide Trico with additional customers and revenue and provide TEP with the opportunity
7 to serve the customers if at some time the company determines it is economically feasible to do so.

8 10. Therefore, Staff has recommended that the Borderline Agreement between TEP and
9 Trico be approved subject to certain conditions and requirements.

10 11. Staff has concern with some of the details contained in the Borderline Agreement
11 regarding TEP's purchase and Trico's sale of Trico-constructed facilities in the event TEP should
12 later decide to serve the subject property. The manner in which Trico's original costs would be
13 documented is not specified in the Borderline Agreement. The depreciation applied to those costs
14 is described in the Borderline Agreement as Trico's costs depreciated at "the agreed upon rate per
15 year." Staff, however, is concerned that depreciation rates agreed upon by TEP and Trico for each
16 type of equipment may not be appropriate to calculate TEP's cost to purchase Trico-constructed
17 facilities because they are not Commission-approved rates. Staff feels that the depreciation rates
18 established in Trico's most recent rate case for each type of equipment would be the appropriate
19 depreciation rates to apply in such a situation.

20 12. For the reasons outlined above, Staff has further recommended that approval of the
21 Borderline Agreement be conditioned on TEP and Trico each preparing a stipulation, and filing it
22 in Docket Control within 60 days of the Order in this proceeding as a compliance item, that the
23 "agreed upon rate per year" for depreciation in their Borderline Agreement will be the
24 "Commission-approved rates established in Trico's most recent rate case for each type of
25 property."

26 13. Staff also has recommended that Trico furnish both TEP and the Commission with
27 an itemized and priced list of all lines and facilities placed into service by Trico to provide electric
28 service adjacent to the four lots on the subject property within 30 days after completion of the

1 construction. The Commission's copy should be filed with Docket Control concurrently with the
2 provision of the document to TEP.

3 CONCLUSIONS OF LAW

4 1. TEP and Trico are Arizona public service corporations within the meaning of
5 Article XV, Section 2, of the Arizona constitution.

6 2. The Commission has jurisdiction over TEP and Trico and over the subject matter of
7 the application.

8 3. The Commission, having reviewed the application and Staff's Memorandum dated
9 July 11, 2006, concludes that it is in the public interest to approve the Borderline Agreement
10 between TEP and Trico, with Staff's recommendations.

11 ORDER

12 IT IS THEREFORE ORDERED that the proposed Borderline Agreement between TEP
13 and Trico is hereby approved as discussed herein.

14 IT IS FURTHER ORDERED that TEP and Trico each prepare a stipulation, and file it in
15 Docket Control within 60 days of this Order as a compliance item, that the "agreed upon rate per
16 year" for depreciation in their Borderline Agreement will be the "Commission-approved rates
17 established in Trico's most recent rate case for each type of property."

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1 IT IS FURTHER ORDERED that Trico furnish both TEP and the Commission with an
2 itemized and priced list of all lines and facilities placed into service by Trico to provide electric
3 service adjacent to the four lots on the subject property within 30 days after completion of the
4 construction and that the Commission's copy should be filed with Docket Control as a compliance
5 item concurrently with the provision of the document to TEP.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7
8 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**
9

10
11 CHAIRMAN

COMMISSIONER

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13
14 COMMISSIONER

COMMISSIONER

COMMISSIONER

15
16 IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive
17 Director of the Arizona Corporation Commission, have
18 hereunto, set my hand and caused the official seal of this
Commission to be affixed at the Capitol, in the City of
Phoenix, this _____ day of _____, 2006.

19
20
21 _____
22 BRIAN C. McNEIL
23 Executive Director

24 DISSENT: _____

25 DISSENT: _____

26 EGJ:JDA:lhmlLF
27
28

Decision No. _____

1 SERVICE LIST FOR: Tucson Electric Power Company and Trico Electric Cooperative, Inc.
2 DOCKET NOS. E-01933A-06-0196 and E-01461A-06-0196

3 Mr. Dave Couture
4 Tucson Electric Power Company
5 One South Church Avenue, Suite 1820
6 Tucson, Arizona 85701-1014

7 Mr. Charles N. Emerson
8 Trico Electric Cooperative, Inc.
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10 Post Office Box 930
11 Marana, Arizona 85653-0930

12 Mr. William M. Dallman
13 755 West Vistoso Highlands Drive
14 Apartment 115
15 Oro Valley, Arizona 85755-6203

16 Mr. Patrick Kirk
17 KEI Investing, L.L.C.
18 1480 East Alder Spring Place
19 Tucson, Arizona 85737

20 Mr. Ernest G. Johnson
21 Director, Utilities Division
22 Arizona Corporation Commission
23 1200 West Washington
24 Phoenix, Arizona 85007-2927

25 Mr. Christopher C. Kempley
26 Chief Counsel, Legal Division
27 Arizona Corporation Commission
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